

# **Trial Court Services and Attendant Departments**

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# **Trial Court Services and Attendant Departments**

## **4-01 TRIAL COURT ADMINISTRATORS**

### **A. Authority**

Authority for establishing the position of trial court administrator is provided by MCR 8.110(C)(6), "A chief judge may delegate administrative duties to a trial court administrator or others."

### **B. Duties and Functions**

The trial court administrator performs administrative duties delegated by the chief judge. The National Association of Court Management and the American Bar Association Commission on Standards of Judicial Administration provide information regarding the role of an administrator, suggested duties, and qualifications.

A trial court administrator relieves the time demands on the chief judge for administrative matters and brings professional management knowledge and experience to the court.

An administrator will typically coordinate activities of the various agencies providing services to the court; administer the workload of the court; administer the personnel functions of the court; prepare and administer the court budgets; analyze and evaluate caseflow management; and manage the court information systems.

For more detailed information, the following references may be helpful:

1. Standards Relating to Trial Courts, American Bar Association, 1976, pp. 61-67.
2. Standards Relating to Court Organization, American Bar Association, 1974, pp. 86-97.

(see also Section 1-05, page 1-05-01)

### **C. Recommended Responsibilities**

The Gender Bias Task Force recommends that all court administrators should:

- a. direct that all forms, manuals, bench books, and correspondence employ gender-neutral language;
- b. establish a policy prohibiting gender-biased conduct by all judges and court personnel;
- c. conduct regular training for court employees on the issue of gender bias and its relation to the proper function of the court as a service provider; and
- d. when undertaking improvements to court facilities, take into account the special needs of parents by providing for child care areas and facilities.

## **4-02 CIRCUIT COURT CLERK (COUNTY CLERK)**

### **A. Authority**

1. The county clerk has the constitutional responsibility to be the clerk of the circuit court in every county organized for judicial purposes except those counties in which a county charter provides otherwise. [Const. 1963, Art. 6, Sec. 14]
2. The county clerk of each county shall be the clerk of the circuit court for the county. [MCL 600.571(a)]

### **B. Appointment of Deputy Circuit Court Clerk (Deputy County Clerk)**

1. Each county clerk shall appoint one or more deputies, to be approved by the circuit judge, one of whom shall be designated in the appointment as the successor of the clerk in the case of vacancy from any cause and may revoke the appointment at his/her pleasure. The appointment and revocation shall be in writing and filed in the office of the county treasurer. The deputy(ies) may perform the duties of the county clerk. [MCL 50.63]
2. The county clerk shall appoint, in counties with more than one circuit judge or having more than 100,000 population but less than 1,000,000, a deputy for each judge, approved by the judge, to attend court sessions. [MCL 600.571(c)]
3. In counties having a population of more than 1,000,000, special provisions apply. [MCL 600.579]

### **C. Bonding of County Clerk**

1. As determined by the county board of commissioners, the county clerk either shall be covered by a blanket bond or shall give a bond to the people of the state, in the penal sum of \$2,000, to be approved by the circuit judge, for the faithful discharge of the duties of the county clerk's office. (see also Section 13-02, pages 13-02-01 and 13-02-02) [MCL 50.61]

The substance of an individual bond for the county clerk is specified by MCL 50.62.

2. The circuit judge may, at his/her discretion, require the county clerk to file a bond with the county treasurer conditioned that the clerk shall, in all respects, comply with the requirements of law and the court rules in the handling and management of funds deposited with the court pursuant to court order. [MCL 600.572]



**D. Removal of County Clerk**

The judge of the circuit court has authority to remove the county clerk from office under certain circumstances. [MCL 168.208]

**E. Filling Vacancy in County Clerk's Office**

The judge of the circuit court may fill a vacancy in the office of county clerk. (see also Section 15-01, page 15-01-02) [Const. 1963, Art. 6, Sec. 14, MCL 168.209]

**F. Duties and Responsibilities****1. Attend Sessions of Courts** [MCL 600.571]**2. Maintain Office Hours**

The office of the circuit court clerk must be open, and the clerk or deputy clerk must be in attendance, during business hours and at other times that the court is in session. [MCR 8.105(A)] The hours of the court are determined by the administrative order issued by the chief judge. [MCR 8.110(D)(1)]

**3. Record Maintenance**

In maintaining case files, indexes, and other records and permitting access to records, the clerk of the court shall comply with the records standards prescribed by statute and court rule and as otherwise prescribed by the Michigan Supreme Court. (see also Section 8-02, page 8-02-01) [MCR 8.119, Michigan Trial Court Case File Management Standards]

**4. Money Paid into Court**

The clerk is responsible to receive, deposit, disburse, and keep records of money paid into court. (see also Section 6) [MCL 50.101 et seq., MCL 600.572 et seq., MCR 8.106]

**5. Maintain Records of Court Reporter/Recorder**

If the court reporter/recorder dies, resigns, is removed from office, or leaves the state, his/her records in each case must be transferred to the clerk of the court. (see also Section 8-02, page 8-02-02) [MCR 8.108(D)]

**6. Jury System**

The county clerk must perform certain duties for the jury system. (see also Section 12-04, pages 12-04-01 through 12-04-07)

## **7. Reports to Other Agencies**

The county clerk must submit reports about the court's business to other local and state government entities. (see also Section 6-05, G, page 6-05-13; H, page 6-05-14; and E.5., page 6-06-06; Section 7-04, pages 7-04-01 through 7-04-04; and Section 8-05, page 8-05-01) [MCR 8.119(G)]

## **8. Admission of Person to Bar**

The clerk of the Supreme Court and of each circuit court shall, when a person is admitted to the bar by that court, administer to the person the oath prescribed by the Supreme Court for members of the bar, and upon payment of the sum of \$25.00 issue to that person a certificate of admission, and keep a record of the admission in the roll of attorneys and the journal of the court, and transmit promptly to the clerk of the Supreme Court and to the State Bar of Michigan without charge certified copies of the orders of admission. When a member of the Bar is suspended or disbarred, or is held in contempt, and when a person is reinstated as a member of the Bar, the clerk of the court so doing shall transmit to the clerk of the Supreme Court and to the State Bar of Michigan without charge certified copies of those orders. [MCL 600.913]

## **9. Other**

Provide assistance to pro se litigants as required by statute.  
[MCL 600.2950, MCL 600.2950a]

## **4-03 CIRCUIT COURT PROBATION/PAROLE**

### **A. Probation**

#### **1. Appointment of Officers**

The Michigan State Department of Corrections, which is administered by the Michigan Corrections Commission of which six members are appointed by the governor, shall appoint, supervise, and remove probation officers for the circuit court in a manner provided by the laws of the State of Michigan. [MCL 791.222, MCL 600.9931]

#### **2. Establishment, Supervision, and Regulation of Bureau**

Within the Michigan State Department of Corrections a department or bureau of probation was established. This bureau shall be under the direction and supervision of the assistant director in charge of probation. [MCL 791.221]

The assistant director shall endeavor to unify probation procedures throughout the state and shall regulate the procedure for the administration of probation including investigation, supervision, casework, record keeping, and accounting. [MCL 791.223]

#### **3. Duties of Officer**

A circuit court probation officer, under the general direction of a supervisor and under the auspices of the circuit court judge or judges shall conduct investigations and prepare informational reports to assist the court in determining appropriate sentences of individuals brought before the court. A circuit court probation officer shall supervise the probationer during his/her term of probation and may recommend relevant programs for rehabilitation.

#### **4. Facilities**

Counties are responsible for rent, contractual services, supplies, materials, and equipment costs supporting probation officers and personnel in the county, including any increases in such costs arising from an increase in probation services staffing. [MCL 791.223(a), OAG 1987-1988, No. 6448, p 136 (June 29, 1987)]

**B. Parole****1. Definition**

Parole is the act of releasing or the status of being released from a state penal institution in which a convicted felon has served a part of a maximum sentence, on condition of maintaining good behavior and remaining in the custody of a state agency, until a final discharge is granted.

**2. Establishment, Supervision, and Regulation of Bureau**

Within the Department of Corrections of the State of Michigan a bureau of pardons and paroles is established, which is administered by an assistant director within the state civil service. S/he shall be responsible to direct and supervise the bureau and shall formulate methods of investigation and supervision and develop various processes in the technique of the casework of the parole staff including interviewing, consultation of records, analysis of information, diagnosis, plan of treatment, correlation of effort by individuals and agencies, and methods of influencing human behavior. S/he shall employ parole officers and assistants, within a geographic parole district, as may be necessary, subject to the approval of the commission. [MCL 791.231(31)]

**3. Duties of Officer**

A parole officer, under the general direction of the district supervisor of each parole district shall supervise the parolee during his/her term of parole. A parole officer may offer guidance and assistance to the offender and may recommend relevant programs for rehabilitation. (see also MCL 791.231 -.245)

## **4-04 FRIEND OF THE COURT**

### **A. Function**

The friend of the court is an administrative arm of the circuit court. This office is generally responsible for the ongoing review and supervision of matters relating to children involved in domestic relations cases heard by the family division of the circuit court. The office conducts investigations, makes reports, mediates disputed cases, and utilizes a variety of statutory remedies to enforce the orders of the court pertaining to custody, parenting time, and support.

The office and facilities of the friend of the court shall provide assistance to the family division of circuit court in accordance with the court's jurisdiction. [MCL 600.1043]

### **B. Authority**

The friend of the court was created by the legislature in 1919. The enabling statutes were substantially amended in 1982 and continue to be modified on a regular basis. The principal statute is the Friend of the Court Act. [MCL 552.501 et seq.]

Other statutes setting forth duties of the office include:

Divorce Act

[MCL 552.1 et seq.]

Family Support Act

[MCL 552.451 et seq.]

Support and Parenting Time Enforcement Act

[MCL 552.601 et seq.]

Interstate Income Withholding Act

[MCL 552.671 et seq.]

Uniform Child Custody Jurisdiction Enforcement Act

[MCL 722.1101 et seq.]

Fees

[MCL 600.2538]

Status of Minors Act

[MCL 722.1 et seq.]

Child Custody Act of 1970

[MCL 722.21 et seq.]

Paternity Act

[MCL 722.711 et seq.]

Revised Uniform Reciprocal Enforcement of Support Act (RURESA)

[MCL 780.151 et seq.]

Uniform Interstate Family Support Act (UIFSA)

[MCL 552.1101 et seq.]

## **C. Funding**

The Friend of the Court Act provides that the chief judge shall set the salaries and expenses of the friend of the court and they shall be paid from the county general fund and the friend of the court fund. [MCL 552.527]

### **1. County General Fund**

The county general fund receives revenue which may be used to offset the expenses of the friend of the court from a number of sources.

- a. Statutory fees, which currently amount to \$2.00 per month per case in which a support order is in effect. The fee is collected in a variety of ways by the state disbursement unit or the friend of the court and deposited with the county treasurer. It is becoming more common for the fees to be paid monthly or weekly through income withholding orders. [MCL 552.457, MCL 722.729, MCL 780.173]

Another statutory fee of \$1.25 is collected by the state disbursement unit or friend of the court every month from every person required to make payments of support or maintenance. Of this fee, \$.25 is transmitted to the county treasurer (general fund) and \$1.00 is transmitted to the state treasurer for deposit in the State Court Fund. [MCL 600.2538]

- b. Cooperative Reimbursement Contract payments. A percentage of office expenses are reimbursed to the county. (see also Section 6-09, pages 6-09-01 and 6-09-02)
- c. State and federal incentives are paid to the county based upon a formula adopted and revised periodically by the Michigan Family Independence Agency. [45 CF 303.52]

### **2. Friend of the Court Fund**

The friend of the court fund was established by the legislature to provide funding for those new services and expenses created by the adoption of the Friend of the Court Act in 1982. [MCL 600.2530]

Revenue for the fund comes from two sources:

- a. The state pays the fund 3% of the collections of the office attributable to reimbursement for FIP received by friend of the court payees.  
[MCL 400.18a]

- b. Judgment fees assessed in each divorce case involving children based upon the level of services provided by the office prior to judgment. The minimum fee is \$30.00. This is increased to \$50.00 if mediation services are provided and to \$70.00 if an investigation is conducted. [MCL 600.2529(1)(d)]

## **D. Duties of the Chief Judge Regarding Friend of the Court**

In addition to the responsibility of the chief judge to establish the budget of the office, the Friend of the Court Act provides that all of the duties of the office shall be performed under the direction and supervision of the chief judge.

### **1. Filling Friend of the Court Vacancies**

- a. If the position of friend of the court becomes vacant for any reason, the chief judge shall appoint a person to the position of friend of the court not later than six months after the vacancy occurs. An appointment under this subsection is not effective until approved by a majority of the circuit, probate, and district court judges serving in all districts that have any area in common with the geographic area served by that friend of the court. [MCL 552.523(1)]

If necessary, the chief judge may appoint an interim friend of the court to serve for not longer than six months until a friend of the court is appointed.  
[MCL 552.523(2)]

- b. In a multi-county circuit, the chief judge may merge friend of the court offices when a vacancy occurs. [MCL 552.503(2)]

### **2. Naming Referees for Friend of the Court Office**

The chief judge names persons to serve as a referee for the friend of the court office. The chief judge may designate an employee of the office of the friend of the court who is a member of the State Bar of Michigan or, if no employee of the office is a lawyer, may designate a member of the State Bar of Michigan. A friend of the court who is not a lawyer, but who is serving as a referee at the time of adoption of this rule, may continue to serve. [MCL 552.507, MCR 3.215(A)]

### **3. Legal Assistance for Friend of the Court Office**

Where neither the friend of the court nor any member of the staff is an attorney, the chief judge may appoint an attorney who is a member of the State Bar of Michigan to assist the friend of the court when legal assistance is needed in order to carry out the office's statutory duties. [MCL 552.522]

#### **4. Annual Review of Friend of the Court Office**

The chief judge conducts the annual review of the performance of the friend of the court office and submits a report of that review to the State Court Administrative Office (SCAO Approved Form FOC 17). [MCL 552.524]

#### **5. Grievances Against Friend of the Court**

- a. The chief judge shall cause grievances against the friend of the court, filed with the chief judge, to be investigated and decided as soon as practicable. [MCL 552.526(1)(b)]
- b. The chief judge submits to the State Court Administrative Office bi-annually a report of the grievances filed with the chief judge and their disposition (SCAO Approved Form SCAO 28). [MCL 552.526(2)]
- c. A party to a domestic relations matter may file at any time a grievance against friend of the court operations with the appropriate citizen advisory committee, who shall at its discretion, conduct a review. [MCL 552.526(2)]

#### **6. Removal of Friend of the Court from Office**

A friend of the court is an at-will employee. [MCL 552.523(3)] The chief judge may remove the friend of the court. A removal under this section is not effective until approved by a majority of the circuit, probate, and district court judges serving in all districts that have an area in common with the geographic area served by that friend of the court. [MCL 552.525]

### **E. Duties of the Friend of the Court Office**

The chief judge is responsible for directing and supervising the operations of the friend of the court office. Those responsibilities are detailed in the statutes cited on page 4-04-01 and in the Michigan Court Rules. Briefly these responsibilities are:

#### **1. Providing Information to Parties**

##### **a. Informational Pamphlet**

An informational pamphlet shall be provided to the parties explaining the role and functions of the office. (see also Section 11-04, page 11-04-01)

##### **b. Mediation Services**

The parties shall be informed of the availability of mediation services to assist them in resolving custody and parenting time disputes.



**c. Joint Custody**

The parties shall be informed of the option for joint custody.

**d. Annual Statement**

Upon their request, the parties shall be provided an annual statement of account.

**2. Performing Investigations**

At any stage of the proceedings, the friend of the court must investigate a custody, support, or parenting time matter when court ordered to do so. After the investigation, the friend of the court must provide a written report and recommendation to the court, the parties, and their attorneys giving a solution the office believes to be in the best interests of the minor child(ren). Prior to adjudication and without necessity of a court order, the friend of the court also must conduct an investigation, and provide a report and recommendation, in all disputed custody or parenting time matters where domestic relations mediation is refused or unsuccessful. [MCL 552.505(d)]

**3. Providing Mediation Services**

In an effort to resolve contested custody or parenting time matters outside the court setting, the friend of the court shall provide mediation services either by contract or with friend of the court office staff.

**4. Conducting Referee Hearings**

The referee shall conduct hearings on those matters referred by the court and recommend an order on those issues. In many courts, the court has designated the types of cases which are automatically referred to the referee such as all show cause petitions where incarceration is not intended as a possible sanction, all petitions to modify child support, etc. In other courts, referral is made on a case by case basis.

**5. Support Payments**

The state disbursement unit or friend of the court shall receive, record, and disburse all payments of support and service fees. [MCL 552.509(2)]. A surcharge at an 8% annual rate shall be added to support payments that are past due as of January 1 and July 1. The amount due on January 1 and July 1 of each year shall be reduced by an amount equal to 2 weeks' support for purposes of assessing the surcharge. [MCL 552.603a(1)]

## **6. Enforcing Orders**

The friend of the court shall enforce all orders regarding custody, parenting time, and support pursuant to the Friend of the Court Act, Support and Parenting Time Enforcement Act, and the Michigan Court Rules.

## **7. Reviewing Support Orders**

The friend of the court shall review support orders in FIP (Family Independence Program) cases or medical assistance cases once every 24 months. In all other cases, the friend of the court shall review support upon the request of either party made at least 24 months after that party's last request.

In addition to these investigation responsibilities, the friend of the court shall investigate support if it has reasonable grounds to believe that the amount of child support should be modified. If any of these types of review determines that support should be modified, the friend of the court shall petition the court for the appropriate modification.

[MCL 552.517]

## **8. Surety Bond Requirements**

The friend of the court surety bond requirements are covered in the Code of Federal Regulations. The Office of Child Support, in the Family Independence Agency, must have and use written procedures for compliance with 45 CFR 302.19. Within these procedures are regulations requiring that every person who has access to child support collections is covered by a bond against loss resulting from employee dishonesty. This provision applies to state and local IV-D agency employees. Individual counties can have self-bonding/insuring provisions. (see also Section 13-02, page 13-02-02) [45 CFR 302.19]

## **F. Citizen Advisory Committee**

A citizen advisory committee is established in each county and is composed of 9 members. The county board shall appoint the citizen advisory committee members except for the following members: the county sheriff, the prosecuting attorney, and the director of the Family Independence Agency. The members shall serve a renewable 3-year term. The citizen advisory committee is advisory only and shall do all of the following: meet not less than 6 times annually; review and investigate grievances; advise the court and county board on the community's needs relating to the friend of the court services; and submit an annual report on its activities to the county board, court, state court administrative office, and the governor's office. A citizen advisory committee meeting shall be open to the public unless the committee is investigating a grievance. [MCR 552.504]

## **4-05 CIRCUIT COURT FAMILY COUNSELING SERVICES**

### **A. Authority**

The circuit court family counseling service was created by the legislature in 1964. The statutes were substantially amended in 1980. [MCL 551.331 et seq.]

### **B. Function**

The family counseling service is an arm of the circuit court and may either be operated separately or be combined with other court services. In most circuits, the service is combined with the friend of the court office. [MCL 551.333]

### **C. Funding**

The Act provides that the board of commissioners shall appropriate \$15.00 of each marriage license fee and all income derived from fees for family counseling services. In addition, the board(s) may appropriate additional funds to maintain the service. The circuit court may not spend more than the amount appropriated by the board. [MCL 551.332]

### **D. General Provisions**

The Act provides that the service offer family counseling including counseling for domestic violence and child abuse. The service may also be utilized to evaluate cases where custody or parenting time are in dispute. In a multi-judge circuit, decisions regarding the service including the hiring of staff must be made by a majority of the bench.

## **4-06 BAIL INFORMATION SERVICES**

### **A. Authority**

There are no statutes which address establishing or operating a bail information service program.

### **B. Establishment**

Bail information service programs are a product of the bail reform movement, an attempt to eliminate the perceived injustices of the commercial bail system. More recently, they have been used to control jail overcrowding since pretrial detainees comprise a significant percentage of county jail populations.

### **C. Implementation**

The delivery of bail information services, also known as pretrial services, varies from county to county depending upon a number of factors. These factors include:

1. the laws which define the circumstances under which some or all defendants may be released pending adjudication;
2. the organizational placement within the community (i.e., court, probation, or jail); and
3. the specific needs of the jurisdiction.

### **D. Function**

#### **1. Information Gathering for Setting Bail**

Despite their individual differences, the purposes of most bail information service programs is to provide judicial officers with information about defendants pertinent to the setting of bail. Typically, each program has investigators who interview defendants and immediately verify the information with members of the community by phone. Shortly thereafter, the findings are presented to the judicial officer responsible for setting bail. Frequently, a detailed report of the defendant's criminal record (if there is one) accompanies the information.

#### **2. Release Recommendations**

Additionally, the bail information service programs may make release recommendations to the judicial officer.

### **3. Supervision of Defendants on Release**

Many programs supervise defendants released on bail or their own recognizance, requiring them to check in on a regular basis, reminding them of future court dates, and monitoring bond conditions imposed by the judicial officer.

### **4. Expediting Criminal Process**

Some bail information service programs operate as a tracking unit, following each defendant step by step through the system and acting as a liaison between the jail, the courts, the police, and the public. In this capacity, a unit deals with problems such as docket delays, appointment of counsel, and other institutional difficulties in processing criminal cases.

### **5. Electronic Surveillance and Drug Screening**

A current trend in bail information service programs is supervision over tethering (electronic digital surveillance) and drug screening programs.

Overall, bail information services have increased the options available to the courts in effecting release while assuring community safety and the integrity of the court process.

(see also Section 15-05, pages 15-05-01 through 15-05-03 and Section 15-06, page 15-06-01)

## **4-07 DISTRICT COURT CLERK**

### **A. Authority**

In each county within a district of the first class, in each district of the second class, and in each political subdivision where the court sits within a district of the third class, the district judge or judges of the district shall appoint a clerk of the court. In districts of the first class the judge or judges may appoint the county clerk to act as clerk of the court.

[MCL 600.8281(1)]

### **B. Appointment of Deputy Clerks**

The clerk of the court shall appoint deputy clerks of the court subject to the approval of the judges. In the thirty-sixth district the chief judge of the district shall appoint the clerk of the court and deputy clerks. [MCL 600.8281(2),(4)]

### **C. Term of Office**

The clerk of the court, including a county clerk to the extent s/he is serving as clerk of the court, shall serve at the pleasure of the district judge or judges of the district.

[MCL 600.8281(3); MSA 27A.8281(3)]

### **D. Bonding of Clerk**

All clerks, deputy clerks, magistrates, and official process servers of the district court must file with the chief judge a bond approved by the chief judge in a penal sum determined by the State Court Administrator, conditioned that the officer will

1. perform the duties as clerk, deputy clerk, magistrate, or process server of that court; and
2. account for and pay over all money which may be received by the officer to the person or persons lawfully entitled.

[MCR 8.204] (see also Section 13-02, pages 13-02-01 and 13-02-02)

### **E. Duties and Responsibilities**

#### **1. General Duties**

##### **a. Maintain Office Hours**

The office of the clerk must be open and the clerk or deputy clerk must be in attendance during business hours. [MCR 8.105(A)] Hours of the court are determined by administrative order issued by the chief judge. [MCR 8.110(D)(1)]

**b. Record Maintenance**

In maintaining case files, indexes, and other records and permitting access to records, the clerk of the court shall comply with the records standards prescribed by statute and court rule and as otherwise prescribed by the Michigan Supreme Court. (see also Section 8-02, page 8-02-01) [MCR 8.119, Michigan Trial Court Case File Management Standards]

**c. Money Paid into Court**

The clerk is responsible for handling money paid into court, including deposit of money, recordkeeping, and disbursement. (see also Section 6) [MCR 8.106]

**d. Maintaining Records of Court Reporter/Recorder**

If a court reporter/recorder dies, resigns, is removed from office, or leaves the state, his or her records in each case must be transferred to the clerk of the court in which the case was tried. The clerk shall safely keep the records subject to the direction of the court. (see also Section 8-02, page 8-02-02) [MCR 8.108(D)]

**e. Jury System**

The district court clerk must perform duties for the jury system. (see also Section 12-04, pages 12-04-01 through 12-04-07)

**f. Preparing Documents**

Unless specifically required by statute or court rule, it is recommended that court clerks **not** prepare pleadings, complaints, subpoenas, or any other document for any plaintiff including the prosecutor. This practice will ensure that the court remains a neutral party.

**2. Allocation of Costs in Third-Class Districts**

In third-class districts, the clerk of the court shall collect data regarding the number of cases and the costs of operating the court; determine the proper share of costs to be borne by each political subdivision; and certify those figures to the treasurers of the political subdivisions. [MCR 8.201(A)]

## **4-08 DISTRICT COURT PROBATION**

### **A. Establishment of Probation Department**

In each district of the district court in the State of Michigan, other than the 36th District, the judge or judges of that district may establish a probation department within a district control unit. The 36th District Court shall have a probation department. Except as provided in MCL 600.8272, which provides for funding the 36th District Court employees by the State Judicial Council, the necessary and reasonable expense of a probation department shall be borne by the district control unit. [MCL 600.8314]

### **B. Duties of Officer**

A district court probation officer, under the general direction of the chief judge, judge, or court administrator, conducts investigations and prepares informational reports in order to assist the district court judge in determining appropriate sentences of individuals brought before the court. The district court probation officer shall supervise the probationer during his or her term of probation and may recommend relevant programs for rehabilitation.



## **4-09 DISTRICT COURT MAGISTRATE**

### **A. Authority**

The office of district court magistrate was created by the District Court Act, 1968 PA 154, Chapter 85. In a county which elects by itself fewer than two district court judges, the county board of commissioners shall provide for one district court magistrate. In all other counties in districts of the first and second class, the county boards of commissioners shall provide for at least one magistrate when recommended by the judges of the district court. Additional magistrates may be provided by the board upon recommendation of the judges and the appointments shall be subject to approval by the county board of commissioners before the person assumes the office of magistrate.

In each district of the third class, the judge or judges of the district may appoint one or more district court magistrates. Before a person assumes the office of magistrate in a district of the third class, the appointment of that person shall be subject to approval by the governing body(ies) of the district control unit(s) which, individually or in the aggregate, contain more than 50% of the population of the district. This section does not apply to the 36th District Court.

The 36th District Court shall have not more than six district court magistrates. The chief judge of that 36th District may appoint 1 or more magistrates. If a vacancy occurs, the chief judge may appoint a successor.

[MCL 600.8501(1),(2),(3)]

### **B. Appointment of Magistrate**

Before being appointed to the office of magistrate in a first or second class district, a person must be a registered elector in the appointed county under MCL 600.8507(1). A person being appointed to the office of magistrate in a third class district must be a registered elector in the appointed district under MCL 600.8501(2). Before assuming office, a person appointed as a magistrate shall take the constitutional oath of office and file a bond with the county treasurer in an amount determined by the State Court Administrator. [MCL 600.8507(1), MCR 8.204] The bond shall also apply to temporary service in another county under MCL 600.8507(2). (see also Section 13-02, pages 13-02-01 and 13-02-02)

### **C. Appointment of Deputy Clerk as Magistrate**

Subject to the provisions of MCL 600.8501, judges of the district court within a district of the first or second class may appoint a clerk or deputy clerk as a magistrate to perform the duties and exercise the powers of a magistrate in addition to his/her duties as clerk or deputy clerk of the district court. [MCL 600.8503]

**D. Term of Office**

All magistrates appointed shall serve at the pleasure of the judge(s) of the district court.  
[MCL 600.8507(1)]

**E. Duties**

A district court magistrate has the following jurisdiction and duties:

**1. Arraignments**

- a. To arraign and sentence upon pleas of guilty or nolo contendere for violations of the following acts or parts of acts, or a local ordinance substantially corresponding to these acts or parts of acts, when authorized by the chief judge of the district court and if the maximum permissible punishment does not exceed 90 days in jail or a fine, or both:
  - i. SPORT FISHING SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.48701 to 324.48740 of the Michigan Compiled laws;
  - ii. WILDLIFE CONSERVATION SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.40101 to 324.40119 of the Michigan Compiled Laws;
  - iii. MARINE SAFETY SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199, except for violations of section 81076(1) and (3) of the Michigan Compiled Laws;
  - iv. THE MOTOR CARRIER ACT, Act No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.43 of the Michigan Compiled Laws;
  - v. MOTOR CARRIER SAFETY ACT of 1963, Act No. 181 of the Public Acts of 1963, as amended, being sections 480.11 to 480.22 of the Michigan Compiled Laws;
  - vi. DOG LAW OF 1919, Act No. 339 of the Public Acts of 1919, as amended, being sections 287.261 to 287.290 of the Michigan Compiled Laws;

- vii. MICHIGAN LIQUOR CONTROL CODE of the Public Acts of 1998, as amended, being sections 436.1703 and 436.1915. Possession of an alcoholic beverage by a person under 21 years of age. Consumption of an alcoholic beverage in public parks or places of amusement not licensed to sell for consumption on the premises;
  - viii. GENERAL POWERS AND DUTIES SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.501 to 324.511 of the Michigan Compiled Laws;
  - ix. LITTERING SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.8901 to 324.8907 of the Michigan Compiled Laws;
  - x. HUNTING AND FISHING LICENSES SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.43501 to 324.43561 of the Michigan Compiled Laws;
  - xi. RECREATIONAL TRESPASS ACT, Act No. 451 of the Public Acts of 1994, being sections 324.73101 to 324.73111 of the Michigan Compiled Laws; and
  - xii. Chapter LXXXV of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.546 to 750.552b of the Michigan Compiled Laws. Include prohibitions on illegal dumping of garbage or trash.
- b. To arraign and sentence upon pleas of guilty or nolo contendere for violations of the MICHIGAN VEHICLE CODE, Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Michigan Compiled Laws or a local ordinance substantially corresponding to a provision of the Michigan Vehicle Code except for violations of MCL 257.625 and 257.625m or a local ordinance substantially corresponding to a provision of MCL 257.625 and 257.625m when authorized by the chief judge of the district court and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of MCL 257.625 and 257.625m or a local ordinance substantially corresponding to MCL 257.625 and 257.625m.

- c. To arraign and sentence upon pleas of guilty or nolo contendere for violations of the following acts or a local ordinance substantially corresponding to a provision of the following acts except for violations of MCL 324.81134, 324.81135, 324.82128, and 324.82129 or a local ordinance substantially corresponding to MCL 324.81134, 324.81135, 324.82128, and 324.82129 when authorized by the chief judge of the district court and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of MCL 324.81134, 324.81135, 324.82128, and 324.82129:
  - i. SNOWMOBILE SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.82101 to 324.82160 of the Michigan Compiled Laws; and
  - ii. OFF-ROAD RECREATION VEHICLES SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 1994, being sections 324.81101 to 324.81150 of the Michigan Compiled Laws. (OFF ROAD RECREATIONAL VEHICLES).
- d. If authorized by chief judge of the district, a district court magistrate may:
  - i. conduct the first appearance of a defendant in all criminal and ordinance violation cases; [MCL 600.8513(1)]
  - ii. accept an admission of responsibility and order civil sanctions for a civil infraction and order an appropriate civil sanction permitted by the statute or ordinance defining the act or omission; [MCL 600.8512a];
  - iii. accept a plea of guilty or nolo contendere and impose sentence for a misdemeanor or ordinance violation punishable by a fine and which is not punishable by imprisonment by the terms of the statute or ordinance creating the offense; [MCL 600.8512a]
  - iv. approve and grant petitions for the appointment of an attorney for an indigent defendant accused of any misdemeanor punishable by up to one year or ordinance punishable by imprisonment; [MCL 600.8513(2)(a)]
  - v. suspend payment of court fees by an indigent party in any civil, small claims, or summary proceedings action until after judgment is rendered; [MCL 600.8513(2)(b)]

- vi. upon written authorization of the prosecuting or city attorney, sign a nolle prosequi, dismissing any criminal or ordinance violation case over which the district court has jurisdiction and release any bail bond or bail bond deposit to whom it is entitled, unless a preliminary examination or trial has been commenced or the judge has accepted a plea of guilty or no contest. [MCL 600.8513(2)(c)]
- vii. execute and issue process to carry into effect authority expressly granted by law to district court magistrates. [MCL 600.8513(2)(d)]

## **2. Warrants**

- a. To issue warrants for arrest upon written authorization of the prosecutor or municipal attorney. Authorization is not required for a vehicle law or ordinance violation within the magistrate's jurisdiction if a police officer issued a traffic citation under MCL 257.728, and the defendant failed to appear. [MCL 600.8511(d)]

Authorization is not required for violations of the motor carrier act if the warrant is requested by agents of the state transportation department, county road commission, or the public service commission. Authorization is not required for a violation of a law protecting wild game or fish if the warrant is requested by the director, special assistant, or conservation officer of the department of natural resources. [MCL 764.1(2)]

- b. To issue search warrants (when authorized to do so by a district judge). Authorization may be either broad (blanket) or narrow (on a case by case basis). [MCL 600.8511(f)]

## **3. Bail**

To set bail and accept bond in all cases including those where defendant is held in a county jail for arraignment and setting bail. [MCL 600.8511(e)]

To set bail and accept bond and order an individual to appear before the circuit court of the county for hearing on the charge of violating a personal protection order when the circuit court judge may not be present or available within 24 hours after arrest of the individual. [MCL 764.15b, MCR 3.708(C)]

## **4. Civil Infractions**

To the extent expressly authorized by the chief judge, presiding judge, or only judge of the district, a magistrate may hear and preside over admissions, conduct informal hearings, and impose civil sanctions authorized by MCL 257.904, 600.8727, or 600.8827. [MCL 600.8512(1), MCL 600.8512a]

A district court magistrate shall not conduct an informal hearing involving a traffic or parking violation governed by the Michigan Vehicle Code until he or she has successfully completed a special training course given by the State Court Administrator in traffic law adjudication and sanctions. [MCL 600.8512(2)]

The magistrate may not handle municipal and state non-traffic civil infractions for juveniles under 17 unless the District Court has entered into an agreement with the Circuit Court for the county in which the District Court is located to waive jurisdiction over any or all state or municipal non-traffic civil infractions alleged to have been committed by juveniles. The agreement must specify for which civil infractions jurisdiction has been waived. For a civil infraction waived the district or municipal court has jurisdiction over the juvenile in the same manner as if an adult had committed the civil infraction. [MCL 712A.2 and MCL 712A.2(e)(1)]

## **5. Miscellaneous**

The magistrate shall act in accordance with provisions of MCL 600.8513(2)(a),(b),(c).

## **6. Small Claims**

A district court magistrate who is an attorney licensed to practice law in Michigan, if authorized by the chief judge of the district, in cases in the small claims division, may administer oaths, examine witnesses, make findings of fact and conclusions of law, and recommend a judgment in the case. In doing so, the magistrate shall perform all functions which a district judge could perform in trying a case. [MCL 600.8427 and MCL 600.8514]

## **7. Marriage Ceremonies**

District court magistrates are authorized by statute to perform marriage ceremonies only in the district in which the magistrate serves. (see also Section 7-04, page 7-04-03 and Section 15-07, page 15-07-01) [MCL 551.7(1)(b)] In addition, the magistrate must keep a record of all marriages performed by the magistrate in a book used expressly for that purpose. [MCL 551.104]

## **8. Appeals**

Every determination that a magistrate makes regarding responsibility is appealable to the district court judge as a matter of right. [MCR 4.401(D)]

## **9. Contempt and Show Cause**

Magistrates do not have the specific authority to hold an individual in contempt including contempts within his or her presence. A magistrate may schedule a show cause hearing, however, the magistrate does not have the authority conduct a show cause hearing or to issue a contempt order. A magistrate does not have the authority to issue a bench warrant.

## **10. Other Duties**

The magistrate provides nonlegal advice and assistance to both the public and the court staff. The magistrate is routinely asked to resolve questions that frequently require discussion with other authorities such as law enforcement officers, prosecuting officials, judicial officers, etc.

Other duties or activities the magistrate may perform are:

- Collecting and recording payment for fines and costs. Except as provided in MCL 600.8535(2), district court magistrates shall pay all fines and costs received by them to the clerk of the district court on or before the last day of the month following receipt of those funds, which shall be allocated as provided in section 8379. [MCL 600.8535(1)] In the 36<sup>th</sup> District Court, each district court magistrate shall cause all fines and costs received by the magistrate to be paid immediately to the clerk of the district court for the 36<sup>th</sup> District. [MCL 600.8535(2)]

**NOTE:** While a magistrate may collect and record payment for fines and costs in courts where there are limited human resources, it is highly discouraged if resources are available. If a magistrate is collecting and recording payments, the magistrate must follow the fiscal management guidelines with regard to receipting and depositing money published in the Michigan Court Administration Reference Guide, Volume 1, Section 6-05.

- Recording, indexing, filing, and posting the disposition of all cases processed.
- Notifying arresting agencies and Secretary of State of notices for failure to appear in court.
- Answering correspondence and complaints regarding cases processed.
- Administering oaths and affirmations.
- Taking acknowledgments.
- Issuing bond forfeiture notices and taking other actions associated with bond forfeiture.

## **11. Immunity**

A district court magistrate, for acts done within his or her jurisdiction as provided by law, shall have judicial immunity to the extent accorded a district court judge.  
[MCL 600.8513(3)]

(see also MJT's "Magistrates Traffic Adjudication Manual" and "Magistrates Self-Instructional Training Package")

## **4-10 LAW CLERKS FOR CIRCUIT AND DISTRICT COURT**

### **A. Authority**

Each circuit and district court may employ law clerks for the court and each judge of the court.  
[MCL 600.1471(1); MSA 27A.1471(1)]

### **B. Requirement for Employment**

A law clerk must be a resident of the State of Michigan and either licensed to practice law in this State or be a graduate or student of a reputable and qualified law school.  
[MCL 600.1471(2); MSA 27A.1471(2)]

### **C. Compensation**

The compensation of law clerks is set by statute.  
[MCL 600.1471(3); MSA 27A.1471(3)]

### **D. Period of Employment and Discharge**

The period of employment for a law clerk is one year, subject to renewal for a similar period. The court may discharge a law clerk at any time.  
[MCL 600.1471(4); MSA 27A.1471(4)]

### **E. Function**

The function of a law clerk is to conduct legal research, prepare memoranda, and perform other duties prescribed by the court under the direction of the judges of the court and pursuant to the general supervisory control of the chief judge of the court.  
[MCL 600.1471(5); MSA 27A.1471(5)]



## **4-11 PROBATE REGISTER**

Note: References to the "clerk" in the Michigan Court Rules also apply to the register in probate court proceedings.

### **A. Appointment**

#### **1. Probate Register**

In each county the probate judge of the county or probate court district, or the chief probate judge in a county having 2 or more probate judges, may appoint a probate register at a reasonable salary fixed by the county board of commissioners. The probate court register so appointed shall take and subscribe the oath of office prescribed by the state constitution of 1963 and give bond to the probate judge or chief judge in the penal sum of \$1,000.00 to be approved by that judge, which bond and oath shall be filed in the office of the county clerk of the county. The probate register shall hold office until the appointment is terminated by the probate or chief judge. (see also Section 13-02, page 13-02-01 and Section 15-01, page 15-01-01) [MCL 600.833(1)]

#### **2. Deputy Probate Register**

If a county has a probate register, the probate judge or the chief probate judge may appoint 1 or more deputy probate registers who shall have such compensation as is fixed by the county board of commissioners. The term of office of the deputy probate registers and their powers shall be the same as those prescribed by law for probate registers. They shall take and subscribe the constitutional oath of office, which shall be filed with the county clerk. [MCL 600.833(2)]

### **B. Judicial Responsibility**

The judges of probate shall be responsible for the direction and supervision of the registers of probate, deputy registers of probate, probate clerks, and other personnel employed by the court to assist in the work of the court. [MCR 8.301(A)]

### **C. Entry of Order Specifying Authority**

1. To the extent authorized by the presiding probate judge or a probate court by an administrative order, the probate register, deputy probate register, the clerks of the probate court, and other employees designated in the order have the authority, until further order of the court, to do all acts required by the probate judge except judicial acts in a contested matter and acts forbidden by law to be performed by the probate register. [MCR 8.301(B)(1)]

2. The order of the chief judge may refer to the power:
  - a. to determine whether the petitioner has complied with requirements of law and court rule, set the time and place for hearings in all matters; take acknowledgements; administer oaths; sign notices, citations and subpoenas; conduct conferences with fiduciaries required to ensure prompt administration of estates; and take testimony as provided by law or court rule;
  - b. to sign the signature of the probate judge on orders and letters of authority. (see also Section 1-06, page 1-06-05) [MCR 5.162(B), MCR 8.301(B)(2), MCL 600.834]

#### **D. Other Authority**

In addition to the powers which may be granted by order of the presiding judge, the probate registers and deputy registers have the authority granted by statute and may take acknowledgements to the same extent as a notary public.  
[MCL 600.834, MCR 8.301(C)]

#### **E. Duties and Responsibilities**

##### **1. General Duties**

###### **a. Maintain Office Hours**

The office of the clerk must be open and the clerk or deputy clerk must be in attendance during business hours. [MCR 8.105(A)] The hours of the court are determined by the administrative order issued by the chief judge.  
[MCR 8.110(D)(1)]

###### **b. Record Maintenance**

In maintaining case files, indexes, and other records and permitting access to records, the clerk of the court shall comply with the records standards prescribed by statute and court rule and as otherwise prescribed by the Michigan Supreme Court. (see also Section 8-02, page 8-02-01) [MCR 8.119, Michigan Trial Court Case File Management Standards]

###### **c. Money Paid into Court**

The clerk is responsible for handling money paid into court, including the deposit of money, recordkeeping, and disbursement. (see also Section 6)  
[MCR 8.106]

**d. Maintaining Records of Court Reporter/Recorder**

If a court reporter/recorder dies, resigns, is removed from office, or leaves the state, his or her records in each case must be transferred to the clerk of the court in which the case was tried. The clerk shall safely keep the records subject to the direction of the court. (see also Section 8-02, page 8-02-02) [MCR 8.108(D)]

**e. Jury System**

The court clerk must perform duties for the jury system. (see also Section 12-04, pages 12-04-01 through 12-04-07)

(see also MJJ's Probate Benchbooks)

## **4-12 PUBLIC GUARDIAN OF PROBATE COURT**

### **A. Authority**

There are no statutes or case law which specifically address the position of public guardian. A public guardian is subject to the same standards as any other guardian, conservator, or fiduciary.

### **B. Funding**

The public guardian/conservator position has been funded by a combination of county money and payments from estates which the public guardian/conservator is handling. Payments to a public guardian/conservator are generally made monthly, based on a written contract and/or subject to court approval on a case by case basis.

### **C. Appointment and Function**

A public guardian/conservator is a person appointed by the court as guardian/ conservator for a ward and/or a ward's estate when there is no other responsible person able or willing to act. The position of public guardian/conservator has been created by certain probate courts in response to the need to have a person available to make personal or financial decisions for someone unable to handle their own affairs.

### **D. Proposed Standards for Individuals and Guardianship Programs**

The Center for Social Gerontology, under a subcontract from the Michigan Office of Services to the Aging, developed proposed standards for individuals and programs in Michigan providing guardianship and representative payee services. The Center also prepared a report on current programs providing guardianship and representative payee services in the State of Michigan. Both the standards and the report are available from the Center of Social Gerontology, Inc., 117 North First Street, Suite 204, Ann Arbor, MI 48104 (313) 665-1126.

Other organizations such as the National Guardianship Association at 1604 N. Country Club Road, Tucson Arizona 85716, (520) 881-6561, have also developed proposed standards for persons or organizations acting as guardians.

#### **4-13 PUBLIC ADMINISTRATOR**

The state public administrator, or the county public administrator appointed by the state public administrator, may be appointed as personal representative or independent personal representative of a decedent's estate subject to the provisions of MCL 700.3203(1).

[MCL 700.3(7), MCL 700.3203(1)(g)]

## **4-14 JUVENILE REGISTER**

Note: References to the "clerk" in the Michigan Court Rules also apply to the register in probate court proceedings.

### **A. Authority**

The judge of probate may appoint either the probate register, deputy probate register, or clerk of the court to the position of juvenile register. **With implementation of family division of the circuit court still in the early stages, it is uncertain yet how the position of juvenile register relates to circuit court.** [MCL 712A.7]

### **B. Duties and Responsibilities**

The duties of the juvenile register include preparing petitions for investigation; preparing summonses, writs, or other necessary papers; and performing such duties as required. The juvenile register must be competent to do all acts required of the probate judges except judicial acts. The juvenile register may, by administrative order, sign or by device indicate the name of a judge to all orders and letters of authority of the court. [MCL 712A.7]

#### **1. General Duties**

##### **a. Maintain Office Hours**

The office of the clerk must be open and the clerk or deputy clerk must be in attendance during business hours. [MCR 8.105(A)] The hours of the court are determined by the administrative order issued by the chief judge. [MCR 8.110(D)(1)]

##### **b. Record Maintenance**

In maintaining case files, indexes, and other records and permitting access to records, the clerk of the court shall comply with the records standards prescribed by statute and court rule and as otherwise prescribed by the Michigan Supreme Court. (see also Section 8-02, page 8-02-01) [MCR 8.119, Michigan Trial Court Case File Management Standards]

##### **c. Money Paid into Court**

The clerk is responsible for handling money paid into court, including deposit of money, recordkeeping, and disbursement. (see also Section 6) [MCR 8.106]

**d. Maintaining Records of Court Reporter/Recorder**

If a court reporter/recorder dies, resigns, is removed from office, or leaves the state, his or her records in each case must be transferred to the clerk of the court in which the case was tried. The clerk shall safely keep the records subject to the direction of the court. (see also Section 8-02, page 8-02-02) [MCR 8.108(D)]

**e. Jury System**

The court clerk must perform duties for the jury system. (see also Section 12-04, pages 12-04-01 through 12-04-07)

## **4-15 JUVENILE PROBATION OFFICER**

### **A. Authority**

The probate judge in each county may appoint one or more suitable persons of good character and qualified training or experience, other than the county agent or assistants, to act as probation officer. The judge may also appoint 'volunteer' probation officers who receive no compensation. **Local implementation of family division of the circuit court has resulted in various plans for the position of juvenile probation.** [MCL 712A.9]

### **B. Duties**

The juvenile probation officer serves at the pleasure of the court and shall report to the court on all cases under their care. [MCL 712A.9]

Qualifications for hiring are outlined in Michigan Supreme Court Administrative Order 1985-5 as amended by Michigan Supreme Court Administrative Order 1988-3.



## **4-16 JUVENILE COURT REFEREE**

### **A. Authority**

The probate judge may designate a probation officer or county agent (county juvenile officer) to act as a juvenile court referee. As specified in statute and court rule, referees must be licensed to practice law in Michigan except those who were designated to act as a referee by the probate judge prior to January 1, 1988 and who were acting as a referee as of January 1, 1988. **Local implementation of family division of the circuit court has resulted in various plans for the position of juvenile court referee.** [MCL 712A.10(1),(2)]

### **B. Duties**

The duties of the referee include taking testimony of witnesses, taking statements from the parties, hearing petitions, administering oaths, and making recommendations as to findings and disposition. [MCL 712A.10(1)(a),(b),(c)]

### **C. Additional Qualifications**

Under statute and Michigan Court Rule a referee must be an attorney in order to perform certain functions.

#### **1. Delinquency Proceedings**

Except as otherwise provided by MCL 712A.10, only a person licensed to practice law in Michigan may serve as a referee at a delinquency proceeding other than a preliminary inquiry or preliminary hearing, if the juvenile is before the court under MCL 712A.2(a)(1). [MCR 5.913(A)(2)]

#### **2. Child Protective Proceedings**

Only a person licensed to practice law in Michigan may serve as a referee at a child protective proceeding other than a preliminary inquiry, preliminary hearing, or a progress review under MCR 5.973(D). [MCR 5.913(A)(3)]

#### **4-17 COUNTY JUVENILE OFFICER**

The probate judge or judges in each county shall appoint a suitable person who shall serve as the county juvenile officer of the county. The county juvenile officer shall not be subject to or governed by civil service law of this state. Each juvenile officer shall hold office at the pleasure of the probate judge or judges of the county and shall perform the various duties required by law. **Local implementation of family division of the circuit court has resulted in various plans for the position of county juvenile officer.** (see also Section 6-11, pages 6-11-01 and 6-11-02)  
[MCL 400.251(2)]

The county juvenile officers and assistant county juvenile officers appointed under MCL 400.251 to 400.254 shall provide assistance to the family division of circuit court in accordance with that court's jurisdiction. [MCL 600.1043]

## **4-18 COUNTY AGENT**

### **A. Authority**

The county agent is an officer of the court under the general supervision of the judges of the family division of the circuit court and under the general supervision of the judge or judges. [MCL 712A.8]

### **B. Duties and Responsibilities**

The county agent serves at the pleasure of the judge or judges. The county agent shall organize, direct, and develop the juvenile welfare work of the court as authorized by the judge. The agent shall, when requested by the superintendent or director, supervise juveniles when released from public institutions or agencies and may perform other juvenile welfare work as requested and with the approval of the judge, including services to school-age children of the various school districts within the county, after consultation and agreement with the county school commissioner and the superintendents of schools in a county. With the judge's approval, the county agent or his or her assistants shall investigate and report on juveniles or families within the county as requested by the family independence agency, the county juvenile agency, or the superintendent of any state institution regarding the welfare of any juvenile. (see also Section 1-06, page 1-06-07) [MCL 712A.8]

### **C. Assistant County Agents**

Assistant county agents shall perform duties as assigned to them by the county agent. [MCL 712A.8]

## **4-19 CHILD CARE HOMES/DETENTION FACILITIES**

### **A. Child/Foster Care Homes**

#### **1. Authority and Licensing**

Provision may be made by the county board of commissioners in each county or of counties contracting together for the diagnosis, treatment, care, training, and detention of juveniles in a child care home or facility conducted as an agency of the county if the home or facility meets licensing standards established by the state family independence agency. The court or a court approved agency may arrange for the boarding of juveniles in any of the following:

##### **a. Foster Care Homes**

- 1) If a juvenile is within the court's jurisdiction under MCL 712A.2(a) or under MCL 712A.2(h) for a supplemental petition, a suitable foster care home subject to the court's supervision. [MCL 712A.16(2)(a), MCL 712A.18(1)(c)]
- 2) If a juvenile is within the court's jurisdiction under MCL 712A.2(b), the court shall not place a juvenile in a foster care home subject to the court's supervision. [MCL 712A.16(2)(a), MCL 712A.18(1)(c)]

##### **b. Child Care Institution or Child Placing Agency**

The court may place juveniles within the court's jurisdiction in a child caring institution or child placing agency licensed by the department of consumer and industry services. [MCL 712A.16(2)(b), MCL 712A.18(1)(d),(e)]

##### **c. County Jail for Juveniles Over 17 Years of Age**

Juveniles within the court's jurisdiction who are over 17 years of age may be placed in a room or ward, separate and apart from adult criminals, in a county jail. [MCL 712A.16(2)(c)]

### **B. Detention Homes**

If a detention home or facility is established as an agency of the county, the judge may appoint a superintendent and other necessary employees for the home or facility who shall receive compensation as provided by the county board of commissioners of the county. This section does not alter or diminish the legal responsibility of the state family independence agency or a county juvenile agency to receive juveniles committed by the court. [MCL 712A.16(3)]

### **C. Costs**

If the court arranges for the board of juveniles temporarily detained in private homes or in a child caring institution or child placing agency, a reasonable sum fixed by the court for their board shall be paid by the county treasurer as provided in MCL 712A.25.

[MCL 712A.16(4), MCL 712A.18(2)]

An order of disposition placing a juvenile in or committing a juvenile to care outside of the juvenile's own home and under state, county juvenile agency, or court supervision shall contain a provision for the reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of care or service. [MCL 712A.18(2)]

An order of disposition placing a juvenile in the juvenile's own home under subsection (1)(b) may contain a provision for the reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of service. [MCL 712A.18(3)]

### **D. Michigan Family Independence Agency**

Further information regarding child/foster care can be obtained from the Michigan Family Independence Agency.

Michigan Family Independence Agency  
Child and Family Services  
Grand Tower Building  
235 South Grand Avenue  
PO Box 30037  
Lansing, Michigan 48909  
(517) 373-0093

## **4-20 DELINQUENCY PREVENTION PROGRAMS**

### **A. Establishment**

The family division of the circuit court has the authority to establish or to assist in the development of a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of children, who do not require formal court jurisdiction but otherwise fall within the jurisdiction of the court under MCL 712A.2(a). These services shall be used only if they are voluntarily accepted by the child and his/her parents, guardian, or custodian. [MCL 712A.2(e)]

### **B. Funding**

Unless the program is approved as an in-home care project or as an activity for which basic grant money is used, funding must come from the county general fund or a grant from other public or private resources.

## **4-21 JUDICIAL ASSISTANT**

### **A. Authority**

All Michigan state courts having at least 10 judges, except the Michigan Supreme Court, are eligible to appoint a judicial assistant. [MCL 600.1481(1)]

### **B. Requirement for Employment**

A judicial assistant must be a licensed attorney in the State of Michigan, in good standing, and capable of practicing law in all courts in the State of Michigan and the United States Supreme Court. The judicial assistant must also have five years of active practice, including appellate experience, and preferably shall have had government experience in a legal capacity. [MCL 600.1481(1)]

### **C. Duties**

The judicial assistant conducts research, studies pending legislation, recommends and drafts remedial legislation, acts as a legal advisor to the court, and represents the court when the prosecuting attorney or attorney general must be disqualified. [MCL 600.1481(2)]

### **D. Compensation and Term of Office**

The judicial assistant's compensation is fixed by the recommending judges within the sum appropriated therefor by the legislative body of the governmental unit, other than the State of Michigan, which pays the compensation of such judges. The term of office for the judicial assistant is concurrent with the term of the recommending judges and is subject to reappointment for like terms. [MCL 600.1481(3), (5)]

### **E. Compensation in Thirty-Sixth District and Third Circuit**

The compensation of the judicial assistant shall be paid by the state and fixed as provided in statute. [MCL 600.592, MCL 600.8272, MCL 725.34]

## **4-22 SHERIFF'S DEPARTMENT**

### **A. Authority**

Article VII, section 4 of the Michigan Constitution of 1963 creates the office of sheriff for each county. The sheriff's duties are prescribed by statute and court rule.

### **B. Duties**

The sheriff's court duties relate generally to security matters and execution of process.

#### **1. Attendance at Sessions of Court**

A sheriff or his/her deputy is required to attend sessions of the circuit, probate, and district courts when requested by the court. The judge requiring attendance determines and regulates the attendance and duties of the sheriff and/or his/her deputies. Practice in the several courts varies as to the frequency of attendance and duties, which generally relate to security of the court, court personnel, public, and jurors.  
[MCL 600.581]

#### **2. Executing Process**

The sheriff and his/her deputies are officers of the court for the purposes of executing process issued by the court. [MCL 600.582]

#### **3. Summoning a Jury**

The court may direct the sheriff to summon a jury. (see also Section 12-04, page 12-04-01) [MCL 600.587 et seq., MCR 2.510(D)]

#### **4. Order for Arrest in Civil Matters**

Process in civil proceedings which require the arrest of a person may be served only by a sheriff, deputy sheriff, police officer, or a court officer appointed by the court for the purpose. In issuing an order for arrest in a civil matter, the court should consider matters relating to proper training of personnel who will effect the arrest and liability for any actions which may arise from the arrest. (see also MCL 600.1811) [MCR 2.103(D)]

### **C. Statutory and Court Rule References**

Authority and duties of the sheriff relating to the courts are more fully set forth in MCL 600.581 et seq., MCL 600.8321, MCR 2.103, MCR 2.510(D), MCR 3.103(E), and MCR 3.105(F), (G), and (J).



## **4-23 JURY BOARD**

### **A. Authority**

All Michigan trial courts are served by a jury board whose primary duty is to provide a list of qualified citizens to serve as jurors. Michigan's jury system and the jury board's responsibilities are governed by statute. (see also Section 12) [MCL 600.1301 et seq.]

### **B. Rules Governing Work of Jury Board**

The judges of each circuit may establish rules, not inconsistent with the jury statute, necessary to implement the statute and to insure the proper conduct of the work of the jury board.  
[MCL 600.1353]

(see also Sections 12-03 and 12-04)

## **4-24 COURT REPORTER/RECORDER**

### **A. Authority**

#### **1. Circuit Court**

Each circuit court in this state shall have as many court reporters or certified court recorders as it has judges. [MCL 600.1101]

#### **2. Probate Court**

The probate judge or chief probate judge of any county or probate court district may appoint, and in counties having a population of 50,000 or more shall appoint, 1 or more official court reporters or certified recorders of the probate court. [MCL 600.835(1)]

#### **3. District Court**

There shall be not less than 1 district court certified court recorder or court reporter for each judge of the district court. [MCL 600.8601]

Under Supreme Court rule, the chief or only judge of the district may appoint additional certified recorders and reporters. [MCL 600.8602(2)]

### **B. Appointment**

#### **1. Generally**

Chief judges, collectively, are the employers of all the official reporters and recorders in this state. The authority and responsibility to "supervise the performance of all court personnel, with authority to hire, discipline, or discharge such personnel, with the exception of a judge's secretary and law clerk, if any" is vested in the chief judge (or single judge) by the provisions of MCR 8.110(C)(3)(d).

#### **2. Circuit Court**

Every reporter or recorder in the circuit court shall be appointed by the governor after having first been recommended by the judge or judges of the court to which s/he is appointed and s/he is an officer of that court. [MCL 600.1104]

#### **3. Probate Court**

The probate judge or chief probate judge of any county or probate court district appoints official court reporters and certified court recorders of the probate court. [MCL 600.835(1)]

#### **4. District Court**

Each judge of the district court shall appoint his or her own reporter or recorder.  
[MCL 600.8602(1)]

The Court of Appeals has held that a district court judge has the right and the responsibility of selecting a court recorder at the beginning of the judge's tenure in office under MCL 600.8601 et seq. The court expressly declined to consider the subsequent removal of the court recorder by the judge who appointed him or her.  
[Irons v 61st Judicial District Court Employees, 139 Mich App 313 (1984)]

#### **C. Qualifications**

Only reporters or recorders certified under MCR 8.108 may record or file transcripts at proceedings held in Michigan courts. [MCR 8.108(G)]

#### **D. Term of Office**

##### **1. Circuit Court**

Every reporter or recorder shall hold office at the pleasure of the governor unless suspended for incompetency or misconduct, by the court to which s/he is appointed. In the case of a suspension, the reporter or recorder shall cease to hold the office of reporter or recorder unless by order of the court his or her suspension is rescinded. If the suspension is not rescinded within 30 days of the order of suspension, the office shall become vacant. [MCL 600.1105]

#### **E. Oath of Office**

##### **1. Circuit Court**

Before entering upon the duties of his or her office, the court reporter or recorder shall take and subscribe the constitutional oath of office which shall be filed in the office of the secretary of state. [MCL 600.1104]

##### **2. Probate Court**

Upon appointment, probate court reporters and recorders shall take and subscribe the constitutional oath of office which shall be filed with the court clerk. [MCL 600.835(1)]

## **F. Management of Court Reporter/Recorder Services**

The chief or only judge of the court is charged with overall administrative responsibility for the employees of the court. This responsibility extends to effective management of the court's shorthand reporters or certified electronic recorders. The court should consider adopting written policies covering the following areas:

### **1. Transcript Production/Exhibits**

#### **a. Responsibility for Supervision of Court Reporters/Recorders**

It is primarily the responsibility of every trial judge to make certain that the court reporter/recorder timely prepare and file transcripts and maintain exhibits. Ultimately, it is the responsibility of the chief judge pursuant to MCR 8.110 to make certain that trial judges and court reporters or recorders comply with the requirements for preparing and filing transcripts and maintaining and filing exhibits.

#### **b. Responsibility of Court Reporter/Recorder**

The court reporter's/recorder's responsibility for preparing and furnishing the transcript is set forth in MCR 8.108. (see also Section 8-02, page 8-02-02)

#### **c. Priority of Transcript Production/Exhibits**

Transcripts should be prepared in order of being ordered. Transcripts should be filed within the time limits prescribed by the Michigan Court Rules. [MCR 7.101(F) and MCR 7.210(B)] In the rare case in which the time limit cannot be met, the reporter or recorder shall file a motion for an extension of time in the appellate court. A copy of any motion for extension of time shall be provided to the chief judge and the court administrator if one (see SCAO Approved form, MC 503).

#### **d. Show Causes**

If a reporter/recorder is ordered by an appellate court to show cause why s/he should not be held in contempt of court for failing to file transcripts on a timely basis, the reporter/recorder shall immediately provide the chief judge and court administrator with a copy of the order.

#### **e. Pending Transcript Report**

Reporters and recorders should be required to file a monthly pending transcript report with the chief judge or court administrator. This report should contain at least the following information:

- 1) name of case;
- 2) file number;
- 3) date ordered;
- 4) date reporter's certificate was filed;
- 5) due date;
- 6) estimated length of transcript;
- 7) "type" of case;
- 8) estimated completion date; and
- 9) show cause date (if applicable).

## **2. Suppressed Transcripts**

There appears to be no statute, court rule, or case law for suppressing transcripts. Procedures for sealing records is prescribed by MCR 8.119(F) (see also Section 8-03, page 8-03-03).

## **3. Videotape Record Transcripts**

The requirements for transcripts produced from videotape records are set forth in Michigan Supreme Court Administrative Order 1990-7 Videotape Record of Court Proceedings. The order authorizes exceptions to MCR 8.108, which requires that certified court reporters and recorders furnishing transcripts of proceedings be in attendance at those proceedings.

## **4. Exhibit Maintenance**

Exhibit maintenance is regulated by MCR 2.518 and the Michigan Trial Court Case File Management Standards. As a general rule, exhibits are maintained by the court reporter while court is in session. During recesses and at the conclusion of a trial or hearing where exhibits have been offered into evidence, the parties are responsible for maintaining and removing exhibits, except for drugs, guns, and other contraband. If an appeal is taken, the court reporter or recorder should either file the exhibits with the clerk of the court so that the clerk can comply with MCR 7.210(C) or file the exhibits with the appellate court.

## **5. Equipment and Supplies**

The court may supply certain basic supplies and equipment to each reporter or recorder. Examples include: transcript paper, stenograph paper, transcript covers, ink, ribbons, exhibit stickers, miscellaneous office supplies, typewriter, dictating machine, and cassettes.

## **G. Manual for Court Reporters and Recorders**

The State Court Administrative Office publishes a Manual for Court Reporters and Recorders which addresses:

1. Overview
2. Certification
3. Transcript Format
4. Fees, Ordering/Filing Transcripts
5. Appellate Procedures
6. Reference Materials
7. Selected Michigan Court Rules
8. Selected Michigan Compiled Laws
9. Audio Recording Procedures